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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

ARMANDO MENDOZA,

Defendant and Appellant.

B221691

(Los Angeles County
Super. Ct. No. PA060354)

THE COURT:*

Armando Mendoza (appellant) appeals from the trial court's denial of his motion to withdraw his "no contest" plea to three counts of carjacking (Pen. Code, § 215, subd. (a)) (counts 12, 13, and 1) and one count of second degree robbery (§ 211) (count 7). Appellant also admitted two firearm-use enhancements (§ 12022.53, subd. (b)) in connection with two of the carjackings, and he admitted a gang enhancement (§ 186.22, subd. (b)) in connection with the robbery.

At the end of the taking of the plea, after appellant and three codefendants had entered their pleas, appellant asked to speak to the court. Appellant's attorney informed the court that appellant claimed he was not aware that he was pleading to four strikes.

* BOREN, P. J., DOI TODD, J., CHAVEZ, J.

Appellant said he would like to take back his plea. The trial court scheduled a hearing for the motion to withdraw his plea and appointed an attorney to represent him. After a hearing, the trial court denied the motion.

The trial court sentenced appellant in accordance with his plea agreement to a total sentence of 30 years. In count 12, the trial court imposed the high term of nine years and 10 years for the firearm-use enhancement, for a total of 19 years in that count. In count 13, the trial court imposed a consecutive sentence of one-third the midterm of five years (one year eight months) and one-third of the 10-year firearm enhancement (three years four months) for a total of five years in that count. In count 1, the trial court imposed one-third the midterm of five years (one year eight months). In count 7, the trial court imposed one-third the midterm of three years (one year,) and one-third of the gang enhancement (three years four months).

We appointed counsel to represent appellant on this appeal. After examination of the record, counsel filed an “Opening Brief” in which no issues were raised. On May 12, 2010, we advised appellant that he had 30 days within which to personally submit any contentions or issues that he wished us to consider. On June 3, 2010, appellant filed a supplemental brief asserting various issues.

According to the transcript of appellant’s preliminary hearing, on November 3, 2007, appellant and three codefendants approached three women who were sitting in a car parked on the street. A female codefendant approached the driver’s side window, and she opened the driver’s door. The female cursed at the driver, pulled her out of the car, and demanded the car keys. Another female codefendant, a male codefendant, and appellant also came to the car. The man who approached the front-seat passenger, later identified as appellant, grabbed the woman by the face and pulled her out of the car. He made her lie down and then he slapped and punched her. All three women in the car were made to get out, and the four perpetrators got in and drove away. The car was later involved in a traffic collision and was found crashed against a fence approximately one and one-half blocks from the carjacking scene.

Later that same night, five women drove into a gas station and the driver parked the car. Four people, two males and two females, approached the car. One of the victims identified appellant as one of the two males standing at the car doors. The female perpetrator told the driver that they were from a gang called Pacoima Projects. She eventually pulled out a gun and put it to the side of the driver. She told the driver that she and her cohorts were going to get inside the car, and the driver was going to give them a ride. The four perpetrators made the girls in the backseat get out, and the four then got in the car. The driver of the car had a gun pointed at her head during the ride. One of the male perpetrators said they should shoot the pregnant girl, who was one of the front passengers. The female with the gun took the driver's money and cell phone. The other two passengers, friends of the driver, were told to hand over "everything [they] had" by the male perpetrators. One of the males also had a gun, and at one point the driver identified appellant as the male with a gun. The car stopped on a dead end street, and the driver and front-seat passengers were told to leave. The perpetrators got into the car. As the passengers walked away, the perpetrators yelled, "Pacoima Projects."

Later that night, a patrol officer recognized the car from a description in a crime broadcast. The officer followed the car and saw five people inside. The car's occupants got out of the car and ran away as the car rolled to a stop. The officer saw appellant get out of the driver's door. The police found appellant in the front yard of a residence and detained him. The officer identified the four defendants in the courtroom as four of the people who ran from the car.

Most of appellant's arguments on appeal relate to what he considers deficiencies in the evidence against him. He cites discrepancies in the victims' testimony at the preliminary hearing; he questions the validity of the photographic lineups; he points out that it was not his DNA found in the crashed car and not his fingerprint found on a beer can in the car; and he alleges that the victims in the second carjacking lied about several things and allowed him and his cohorts into the car willingly. He contends he did not participate in the second carjacking—he was just there and let it happen. None of these issues are pertinent to the matter before us, i.e., whether the trial court abused its

discretion in refusing to allow appellant to withdraw his plea on the ground that he was not aware he was pleading to four strike offenses.

Appellant also argues on appeal that the guilty plea was forced on him, and that he was pressured and manipulated. He contends he was incompetent at the time, having been broken down by the judge, the district attorney, and the rest of the attorneys. He states that, when he realized that he had pleaded to four strike offenses, he got the courage to stand up and ask to take his plea back. Instead of allowing him to do so, the judge appointed another attorney, who got appellant's motion to withdraw the plea denied. He believes his lawyer for the motion was on the side of the district attorney and the judge.

At the hearing on the motion to withdraw the plea, appellant's counsel told the judge that appellant's position was that he was not advised that the plea would cause him to have four strikes in the future. The trial court read aloud from the transcript of the taking of the plea, wherein the prosecutor informed the defendants: "Your pleas here today could result in enhancing any future sentence if you're convicted of another felony later on. Each of these counts that you're pleading to, for all of you, all of the four counts that you're pleading to, they are all strikes. Some are serious and some are violent felonies. So you will have at least four strikes in addition to whatever else you have after your plea here. So that could result in a serious enhancement of any future sentence if you're convicted of another felony in the future." The court pointed out that the prosecutor then asked appellant, "Do you understand that, Mr. Mendoza?" And appellant replied. "Yes." The prosecutor asked the same question of each of the defendants. After considering the entire transcript from the plea hearing, the written and oral arguments, and the points and authorities, the trial court concluded that each of the defendants freely and voluntarily waived their rights and entered into the plea agreement, and each of them understood the consequences thereof.

Generally, "[a] decision to deny a motion to withdraw a guilty plea "rests in the sound discretion of the trial court"" and is final unless the defendant can show a clear abuse of that discretion. [Citations.]" (*People v. Fairbank* (1997) 16 Cal.4th 1223,

1254.) This is the appropriate standard of review even where the defendant argues that his plea was not knowingly and intelligently made. (*Ibid.*) A reviewing court must adopt the trial court's factual findings if substantial evidence supports them. (*Ibid.*) In this case, the record shows that the trial court was correct in its assessment that appellant entered into his plea knowingly and voluntarily. The record of the taking of the plea shows that appellant stated he understood the offer and wanted to take it. He understood the charges against him and needed no more time to speak with his attorney. He stated that he understood his rights and gave each of them up. He was given the special admonition about his four convictions being strikes, and he said he understood it.

The trial court did not abuse its discretion in denying appellant's motion to withdraw his plea and his admissions. Furthermore, we have examined the entire record, and we are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.

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